



CRP. No. 1511 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1511 of 2023

1.Koothayee

2.Duraisamy

...Petitioners

Vs.

1.Jayaraman

2.Chellammal

3.Muthammal

....Respondent

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 05.09.2022 passed in I.A No. 3 of 2022 in O.S No. 45 of 2022 on the file of the District Munsif-cum-Judicial magistrate, Veppanthattai, Perambalur District.

For Petitioner : Mr.C.Prakasam

For R1 to R3 : Mr.B.Balajayam
& E.Thiyage



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ORDER

This petition has been filed to set aside the fair and decreetal order dated 05.09.2022 passed in I.A No. 3 of 2022 in O.S No. 45 of 2022 on the file of the District Munsif-cum-Judicial magistrate, Veppanthattai, Perambalur District.

2. Heard the learned counsel for the petitioner.

3. On seeing the fact that the petitioner herein filed I.A No. 3 of 2022 in O.S No. 45 of 2022, for appointing the Advocate commissioner to measure the suit property along with surveyor. Considering the fact of the case the respondents claiming 5 feet as pathway in the suit property but the contention of the petitioner is that it is not a pathway. Hence, the petitioner filed application for appointing the advocate commissioner to measure the suit property with the help of surveyor. This Court is of the view that only after measuring the suit property with the help of the surveyor we can find whether the pathway is existed or not. But, the Court below failed to appreciate this facts. Hence, the order passed by the Trial Court in I.A No. 3 of 2022 in O.S No. 45 of 2022 on the file of the District Munsif-cum-Judicial magistrate, Veppanthattai, Perambalur District.



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T.V.THAMILSELVI,J.

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4. In result, this civil Revision petition is allowed. No cost.

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To

1. The District Munsif-cum-Judicial magistrate, Veppanthattai, Perambalur District.

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